



1410-72-P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 17-0005-CRB-AU]

Notice of Intent to Audit

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of a notice of intent to audit the 2013, 2014, and 2015 statements of account of Music Choice concerning the royalty payments its Preexisting Subscription Service and Business Establishments Service made pursuant to two statutory licenses.

FOR FURTHER INFORMATION CONTACT: Anita Brown, Program Specialist, by telephone at (202) 707-7658 or by email at crb@loc.gov.

SUMMARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to limitations. Specifically, the right is limited by the statutory license in section 114 which allows nonexempt noninteractive digital subscription services, eligible nonsubscription services, and preexisting satellite digital audio radio services to perform publicly sound recordings by means of digital audio transmissions. 17 U.S.C. 114(f).

In addition, a statutory license in section 112 allows a service to make necessary ephemeral reproductions to facilitate the digital transmission of the sound recording, including

for transmissions to business establishments¹. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR parts 380 and 382-84.

As part of the terms set for these licenses, the Judges designated SoundExchange, Inc. as the Collective, *i.e.*, the organization charged with collecting the royalty payments and statements of account submitted by licensees, including those that operate preexisting subscription services and those that make ephemeral copies for transmission to business establishments. The Collective is also charged with distributing the royalties to the copyright owners and performers entitled to receive them. *See* 37 CFR 382.2, 384.4(b).

As the designated Collective, SoundExchange may, once during a calendar year, conduct an audit of a licensee for any or all of the prior three years in order to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and deliver the notice to the licensee. *See* 37 CFR 382.6, 384.6.

On December 22, 2016, SoundExchange filed with the Judges a notice of intent to audit Music Choice's Preexisting Subscription Service and Business Establishment Service for the years 2013, 2014, and 2015. The Judges must publish notice in the **Federal Register** within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. *See* 37 CFR 382.6(c), 384.6(c). Today's notice fulfills this requirement with respect to SoundExchange's December 22, 2016, notice of intent to audit.

Dated: January 13, 2017

Suzanne M. Barnett,
Chief Copyright Royalty Judge.

¹ Subject to the limitations set forth in section 114(d)(1)(C)(iv).

